

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KENNY M. BROWN,  
Petitioner,

v.

DAVID BAUGHMAN,  
Respondent.

Case No. [17-cv-01409-JCS](#) (PR)

**ORDER OF DISMISSAL**

Dkt. Nos. 2, 7 and 9

Petitioner has not complied with the Court's order to (1) perfect his application to proceed *in forma pauperis* ("IFP"), or (2) pay the full filing fee of \$5.00. His IFP application is incomplete because it does not contain a properly completed and signed Certificate of Funds. The one submitted is blank. Accordingly, the action is DISMISSED without prejudice for failing to respond to the Court's order, and for failure to prosecute, *see* Fed. R. Civ. P. 41(b).<sup>1</sup>

Because this dismissal is without prejudice, petitioner may move to reopen the action. Any such motion **must** contain a properly completed and signed Certificate of Funds, **or** full payment for the filing fee of \$5.00.

Petitioner's IFP application (Dkt. Nos. 2 and 7) is DENIED as insufficient.

His motion for the appointment of counsel (Dkt. No. 9) is DENIED without prejudice. Petitioner may file a new motion when he files his IFP paperwork.

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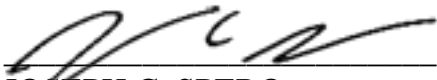
<sup>1</sup> Petitioner consented to magistrate judge jurisdiction. (Dkt. No. 5.) The magistrate judge, then, has jurisdiction to decide this motion, even though respondent has not been served or consented to magistrate judge jurisdiction. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995)

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The Clerk shall terminate Dkt. Nos. 2, 7 and 9, enter judgment in favor of respondent, and close the file.

**IT IS SO ORDERED.**

**Dated:** May 2, 2017

  
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JOSEPH C. SPERO  
Chief Magistrate Judge

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KENNY M. BROWN,  
Plaintiff,

v.

DAVID BAUGHMAN,  
Defendant.

Case No. [17-cv-01409-JCS](#)

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 2, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kenny M. Brown ID: ID: V22473  
CMC-East Facility (Cell # 5134)  
P.O. Box 8101  
San Luis Obispo, CA 93409-8101

Dated: May 2, 2017

Susan Y. Soong  
Clerk, United States District Court

By: Karen L. Hom  
Karen Hom, Deputy Clerk to the  
Honorable JOSEPH C. SPERO